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REMARKS**A. Amendment to the Claims**

Claim 29 has been amended for clarification purposes. Accordingly, no new matter has been introduced into the application as a result of the present amendment.

Consideration and entry of this amendment is respectfully requested. The amendment does not raise any new issues and would not require any burdensome search. The Applicant believes that the amendment places the application into condition for an allowance or in better form for consideration on appeal.

**B. The Office Action****1. Rejection under 35 U.S.C. § 102(b) based on Rodriguez**

Claims 29-34, 51, 54, 58, 59, 61, 62, 66, and 73 were rejected under 35 U.S.C. §102(b) as being anticipated by *Rodriguez* (U.S. Pat. No. 5,411,493). Applicant respectfully traverses this rejection.

As a threshold matter, the Federal Circuit has stated that for prior art to anticipate under section 102, every element of the claimed invention must be identically disclosed in a single reference. *Corning Glass Works v. Sumitomo Electric*, 9 U.S.P.Q.2d 1962, 1965 (Fed. Cir. 1989). The exclusion of a claimed element, no matter how insubstantial or obvious, from a reference is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q 193, 198 (Fed. Cir. 1983).

The Examiner submits that "Rodriguez discloses an integrally formed garment body 10 of stretchable liquid impermeable material (col. 6, lines 61-68 and col. 7, lines 11-14), the garment body having different areas of thickness, in areas where the material

overlaps to form pockets and seams (Figures 4-6); and loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 6, lines 31-49)." Applicant respectfully disagrees.

*Rodriguez* discloses a vest used to cool or warm the body in order to control body temperature. The vest is made of an absorbent material, however there is no disclosure of the vest having enhanced or greater thicknesses made within the *same layer*. The pockets and other overlapping straps disclosed in *Rodriguez* are not positioned within the same layer, and thus do not anticipate claim 29 as amended which recites, "the single layer itself having different thicknesses of the liquid impermeable material within desired areas." Furthermore, col. 6, lines 31-49, does not support the Examiner's assertion of a disclosure of "loose fibers *directly affixed* to at least part of inner surface of an integrally formed garment body" as presently claimed. See claim 29. That section discloses a garment made of a wicking absorbent material, e.g., cotton terrycloth, is not a disclosure of a garment body of a "single layer of stretchable liquid impermeable material" as presently claimed.

Accordingly, the Applicant submits that withdrawal of the 35 U.S.C. §102(b) rejection of claims based on *Rodriguez* is in order and is respectfully requested.

## **2. Rejection under 35 U.S.C. §102(e) based on Shlenker**

Claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 were rejected under 35 U.S.C. §102(e) as being anticipated by *Shlenker et al.* (U.S. Pat. No. 5,965,276). Applicant respectfully traverses this rejection.

*Shlenker* discloses a method to produce a polymer membrane including discrete layers. The "single and multiple layer membranes such as gloves and condoms include one or more deactivating barrier layers and/or indicating layers...A membrane may include one or more permeable or semipermeable porous layers to disperse contained substances..." See *Shlenker*, Abstract, lines 1-4. The resulting products are made of at least two layers of different materials, including fibers "trapped" between the layers. *Shlenker's* disclosure of multilayered porous material cannot be regarded as a "single layer itself having different thicknesses within desired areas," as recited in independent claim 29.

Furthermore, *Shlenker* does not disclose "loose fibers affixed to at least a part of the inner side of the garment" to achieve a non-sticky surface, as disclosed in the present application and claims. Rather, *Shlenker* merely discloses fibers as part of a long list of materials being contained between the layers. See col. 7, lines 8 and 26-35. Moreover, unlike the present application, the fibers disclosed in *Shlenker* do not coat the product and are not in direct contact with the wearer's body. Instead, the fibers are positioned between the membrane layers and the membranes are surface treated to contain the coated substance (e.g. fibers). See col. 8, lines 4-20.

Accordingly, Applicant respectfully submits that withdrawal of the 35 U.S.C. §102(e) rejection of claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 based on *Shlenker* is in order and is respectfully requested.

### 3. Rejection under 35 U.S.C. §102(e) based on Lasko

Claims 29, 30, 32-36, 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68-69, and 72 were rejected under 35 U.S.C. §102(e) as being anticipated by *Lasko et al.* (U.S. Pat. No. 6,277,104). Applicant respectfully traverses this rejection.

*Lasko* discloses air permeable, liquid impermeable barrier structures and products made therefrom. *Lasko* relates to absorptive articles such as pads of different designs. Such products are known in the art as being made of different layers. The layer in contact with the body is a permeable layer, and the outer layer is mainly an impermeable layer. Those layers are bonded together at their edges to create the article. The absorbent core is enclosed between those layers. *Lasko* discloses a method of improving the outer layer. The Examiner submits that one interpretation of the phrase "different thicknesses" (interpretation no. 1) would include *Lasko*'s disclosure of a barrier structure being thinned by embossing and stretching to create pores, pointing to col. 6, lines 53-56 in support. According to the Examiner, the process of thinning the film to create the pores will invariably create different thicknesses in the film. Alternatively, the Examiner submits that "different thicknesses" (interpretation no. 2) would include *Lasko*'s disclosure of a barrier structure having an overlapping arrangement of a single layer to create different thicknesses, pointing to col. 9, lines 24-26 in support.

Contrary to the Examiner's position with respect to interpretation no. 1, *Lasko*'s col. 6, lines 49-55 describes various methods for producing holes in films which include mechanical punctures or needling, ultrasonic perforation, and by "thinning the film in discrete areas as by embossing following by stretching to cause the thinned areas to burst". The process of embossing and stretching the film does not produce a product

having different thicknesses, rather the resulting product is a film having holes (no material). There is no disclosure or suggestion of a single layer itself having different thicknesses of liquid impermeable material within desired areas as presently claimed. Similarly, the arrangement described in interpretation no. 2 would entail the formation of multilayered structure of a single layer folded on itself, which is not the same as different thicknesses within the single layer itself as recited in claim 29.

Moreover, *Lasko* fails to disclose loose fibers as recited in independent claim 29. The Examiner submits that element 78 in *Lasko* shows fibers, pointing to col. 7, lines 57 and 58 for support. However, col. 7, lines 57 and 58, states: "Partides[sic] may be fused to both opposing sides of the porous substrate". Column 12, lines 53-54 of the specification, further clarifies that element 78 as "sintered flattened particles 78 of barrier structure 76." Barrier structure 76 is characterized as being "air permeable, substantially liquid permeable". A disclosure of particles fused to both opposing sides of the porous substrate that is substantially liquid permeable is not a disclosure or suggestion of a protective garment having a single layer of stretchable liquid impermeable material and having an inner surface and loose fibers directly affixed to at least part of the inner surface as presently claimed.

In view of the above discussion, the Applicant submits that the section 102(e) rejection of claims 29, 30, 32-36, 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68, 69, and 72 based on *Lasko* is improper and should be withdrawn.

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4. Rejections under 35 U.S.C. §103(a) in view of *Lasko* and *Wiegner* of*Tanzer*

The Examiner further rejected claims 48 and 70 under 35 U.S.C. §103(a) as being unpatentable over *Lasko* in view of *Wiegner* (U.S. Patent no. 4,662,876), and claims 49 and 71 under 35 U.S.C. §103(a) as being unpatentable over *Lasko* in view of *Tanzer* (U.S. Patent no. 5,342,333). Neither *Wiegner* nor *Tanzer* remedy the deficiencies of *Lasko* discussed above. Thus, for this reason, the rejections are improper and should be withdrawn.

## C. Conclusion

In view of the above amendments and discussion, the Applicant submits that the application is in condition for an allowance. A Notice to this effect is respectfully requested. Prompt consideration and entry of this response is respectfully requested. If the Examiner believes that a telephone conference would expedite the prosecution of this application, the Examiner is invited to call Applicant's undersigned representative.

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Respectfully submitted,

  
Emily Miao  
Reg. No. 35,285

McDonnell Boehnen  
Hulbert & Berghoff LLP  
300 South Wacker Drive  
Chicago, IL 60606  
Telephone: 312-913-0001  
Facsimile: 312-913-0002